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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/780,516
Filing Date: February 17, 2004
Appellant(s): LACHELT ET AL.

John P. Wagner, Jr. (35,398)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/22/2009 appealing from the Office action mailed 3/02/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2004/0139193 A1 Refai et al.

US 2004/0022379 A1 Klos et al.

Rockwell Automation, Allen Bradley PLC-5 Programmable Controllers

Instruction Set Reference, November 1998, The Rockwell International Corporation, Publication 1785-6.1, Pages: Cover, Back Cover, Page 2-4 and Page 2-19 (4 total pages).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0139193 A1 (Refai et al.), and further in view of US 2004/0022379 A1 (Klos et al.), and Rockwell Automation's Non-Patent Literature publication 1785-6.1 (Rockwell).

As to Claims 1, 12 and 20, Refai et al. disclose a method, arrangement and an article of manufacture comprising a program storage medium having computer readable code embodied therein, said computer readable code being configured substantially as claimed to activate a plurality of target elements in a computing arrangement, comprising:

receiving a high-level request pertaining to said plurality of target elements (Refai, Page 2, paragraphs 0019 and 0020 describe the work management module responding to the scheduler's high level request pertaining to the configuration and

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execution of network target entities. Furthermore the policy module also receives a high level request pertaining to the target elements);

parsing said high-level request into a plurality of atomic requests (Refai, Page 2 paragraph 0020 describes the work management and policy modules working together to parse the high level request into smaller requests); and

of said plurality of atomic requests (Refai, Page 2 paragraph 0020 describes the work management and policy modules working together to parse the high level request into smaller requests); and

of said plurality of target elements (Refai, Page 2, paragraphs 0019 and 0020 describe the work management module responding to the scheduler's high level request pertaining to the configuration and execution of network target entities).

Refai et al. do not explicitly disclose activation requests, but Klos et al. disclose activation request (Klos et al. – Page 44, ¶ [0832] discloses the original activation request being separated into multiple activation requests).

Refai et al. disclose a first atomic request, target element and journaling proxy but do not disclose receiving at time t1 a first atomic request at a first journaling proxy, said first journaling proxy being associated with a first target element, but Rockwell discloses receiving at time t1 a first atomic request at a first journaling proxy, said first journaling proxy being associated with a first target element (Rockwell - Page 2-4 discloses the TON instruction used on programmable logic controllers to accept a request at time T1 when the "rung goes true" and uses the predefined configuration parameters of time base and preset to determine when to transfer the request at a time

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T2 when conditions of time base times preset have elapsed. Said timer journals the accumulated time elapsed from the time T1), and

said first journaling proxy intentionally delaying sending said first atomic request to said first target element for execution until a time t2 that satisfies a set of predefined configuration parameters for said first target element (Rockwell - Page 2-4 discloses the TON instruction used on programmable logic controllers to accept a request at time T1 when the "rung goes true" and uses the predefined configuration parameters of time base and preset to determine when to transfer the request at a time T2 when conditions of time base times preset have elapsed. Said timer journals the accumulated time elapsed from the time T1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine activation requests taught by Klos et al. with receiving a high-level request pertaining to said plurality of target elements and parsing said high-level request into a plurality of atomic requests taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to separate activation requests due to the need to update at different times (Klos et al. – Page 44, ¶ [0832]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine receiving at time t1 a first atomic request at a first journaling proxy, said first journaling proxy being associated with a first target element, and said first journaling proxy intentionally delaying sending said first atomic request to said first target element for execution until a time t2 that satisfies a set of predefined

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configuration parameters for said first target element taught by Rockwell with activating a plurality of target elements taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to separate activation request delivery due to the need to update at different times (Klos et al. – Page 44, ¶ [0832]).

As to Claims 2, 13 and 21, the combination of Refai et al., Klos et al. and Rockwell discloses the method, arrangement and an article of manufacture comprising a program storage medium having computer readable code embodied therein of claims 1, 12 and 20 respectively, wherein said set of predefined configuration parameters for said first target element specifies a predefined time window within which said executing said first atomic request occurs (Refai, Page 4, paragraph 0059 describes predefining a time window within which to execute).

As to Claims 3, 14 and 22, the combination of Refai et al., Klos et al. and Rockwell discloses the method, arrangement and an article of manufacture comprising a program storage medium having computer readable code embodied therein of claims 1, 12 and 20 respectively, wherein said first atomic request includes resetting said first target element (Refai, Page 2, paragraph 0019 describes a plurality of configuration requests which would include reset functions), to a predetermined value (Rockwell, Page 2-19 shows the operation of the CTU instruction which allows setting to a predetermined value by entering a value into the “Preset” register); and

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said resetting only occurs after a predefined number of reset-containing requests for said first target element are accumulated by said first journaling proxy since said first target element was last reset (Rockwell, Page 2-19 shows the operation of the CTU instruction which counts up a configurable number of events), said resetting only occurs once at said first target element for said predefined number of reset-containing requests (Rockwell, Page 2-19 shows the operation of the CTU instruction which after counting up a configurable number of events, sends the DN signal which indicates that the number of events received matches the configurable preset held in the Preset register).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the counting method taught by Rockwell with the task resetting method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to improve resetting efficiency by waiting until a specified number of reset requests occurred.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the resetting to a predetermined value method taught by Rockwell with the resetting of the first target element method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to reset to predetermined values for flexibility of setup.

As to Claims 4, 15 and 23, the combination of Refai et al., Klos et al. and Rockwell discloses the method, arrangement and an article of manufacture comprising a program storage medium having computer readable code embodied therein of claims 1,12 and 20 respectively, wherein said first atomic request includes resetting said first target element (Refai, Page 2, paragraph 0019 describes a plurality of configuration requests which would include reset functions), to a predetermined value (Rockwell, Page 2-19 shows the operation of the CTU instruction which allows setting to a predetermined value by entering a value into the "Preset" register); and

said resetting of said first target element only occurs after an expiration of a predefined time period since said first target element was last reset (Rockwell, Page 2-49 shows the operation of the TON instruction which after counting up a configurable number of time units, sends the DN signal which indicates that the number of time units counted matches the configurable preset time held in the Preset register).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the timing method taught by Rockwell with the task resetting method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to improve resetting efficiency by waiting until a specified amount of time had elapsed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the resetting to a predetermined value method taught by Rockwell with the resetting of the first target element method taught by Refai et al.

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One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to reset to predetermined values for flexibility of setup.

As to Claims 5, 16 and 24, the combination of Refai et al., Klos et al. and Rockwell discloses the method, arrangement and an article of manufacture comprising a program storage medium having computer readable code embodied therein of claims 1, 12 and 20 respectively, wherein said first atomic request includes resetting said first target element (Refai, Page 2, paragraph 0019 describes a plurality of configuration requests which would include reset functions), to a predetermined value (Rockwell, Page 2-19 shows the operation of the CTU instruction which allows setting to a predetermined value by entering a value into the "Preset" register); and

said resetting only occurs after an expiration of a predefined time period since said first atomic request is received by said first journaling proxy (Rockwell, Page 2-49 shows the operation of the TON instruction which after counting up a configurable number of time units, sends the DN signal which indicates that the number of time units counted matches the configurable preset time held in the Preset register. The start of time count is when the time rung goes true, which can be triggered by any event including the time when the first atomic request is received by said first journaling proxy).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the timing method taught by Rockwell with the task resetting method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to monitor the amount of time a request takes and base a reset delay on the triggering of the event of an excess of elapsed time.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the resetting to a predetermined value method taught by Rockwell with the resetting of the first target element method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to reset to predetermined values for flexibility of setup.

As to Claims 6 and 17, the combination of Refai et al., Klos et al. and Rockwell discloses the method and arrangement of claims 1 and 12 respectively, wherein said first atomic request includes resetting said first target element (Refai, Page 2, paragraph 0019 describes a plurality of configuration requests which would include reset functions), to a predetermined value (Rockwell, Page 2-19 shows the operation of the CTU instruction which allows setting to a predetermined value by entering a value into the "Preset" register); and

said time t_2 occurs responsive to a first occurrence of one of a first event and a second event, said first event representing an accumulation of a predefined number of

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reset- containing requests for said first target element by said first journaling proxy (Rockwell, Page 2-19 shows the operation of the CTU instruction which after counting up a configurable number of events, sends the DN signal which indicates that the number of events received matches the configurable preset held in the Preset register), said second event representing an expiration of a predefined time period since said first atomic request is received by said first journaling proxy (Rockwell Page 2-49 shows the operation of the TON instruction which after counting up a configurable number of time units, sends the DN signal which indicates that the number of time units counted matches the configurable preset time held in the Preset register. The start of time count is when the time rung goes true, which can be triggered by any event including the time when the first atomic request is received by said first journaling proxy).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the counting and timing methods taught by Rockwell with the task resetting method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to monitor the amount of time a request takes and base a reset delay on the triggering of the event of an excess of elapsed time; and to monitor the amount of time a request takes and base a reset delay on the triggering of the event of an excess of elapsed time.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the resetting to a predetermined value method taught by Rockwell with the resetting of the first target element method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide a means to reset to predetermined values for flexibility of setup.

As to Claim 7, the combination of Refai et al., Klos et al. and Rockwell discloses the method of claim 1 wherein only a subset of target devices that receive atomic requests parsed from said high-level request are associated with journaling proxies (Refai, Page 2 paragraph 0020 describes the work management and policy modules working together to parse the high level request into smaller requests; Rockwell – Page 2-4 discloses the TON proxy).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 8, the combination of Refai et al., Klos et al. and Rockwell discloses the method of claim 7 wherein each target device of said subset is associated with a different journaling proxy (Rockwell – Page 2-4 discloses the TON journaling proxy dedicated to a single input request and single output response).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine dedicated proxies taught by Rockwell with the atomic request method taught by Refai et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to provide individual resource proxies dedicated to each target device because of differing needs or configurations of said individual target devices. Dedicated

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proxies, customized to the individual device would allow more efficient proxy execution, improved response, and flexibility to allow future device configurations to be adapted to the system.

As to Claims 9 and 25, the combination of Refai et al., Klos et al. and Rockwell discloses the method and an article of manufacture comprising a program storage medium having computer readable code embodied therein of claims 1 and 20 respectively, further comprising sending a qualified success message from said first journaling proxy to said activation engine after said first atomic request is received at said first journaling proxy, said qualified success message enabling said activation engine to consider said high-level request a provisional success in order to attend to any other pending high-level activation request (Refai, Page 5, paragraph 0062-0063 describe the process of testing the potential success of an upcoming configuration job, and sending back that status so that further decisions can be made by the requestor. Then in paragraph 0066, the “listener module” is described as being able to send a signal that a resource(s) is missing at the time of attempted configuration command execution to the requesting device; Klos et al. – Page 44, ¶ [0832] discloses activation request; Rockwell – Page 2-4 discloses the TON proxy).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claims 10 and 26, the combination of Refai et al., Klos et al. and Rockwell discloses the method and an article of manufacture comprising a program storage

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medium having computer readable code embodied therein of claims 9 and 25 respectively, wherein said qualified success message is sent only after said first journaling proxy ascertains that said first target element is capable of performing all tasks specified by said first atomic request but for at least one unsatisfied parameter in said predefined configuration parameters (Refai, Page 5, paragraph 0062-0063 describe the process of testing the potential success of an upcoming configuration job, and sending back that status so that further decisions can be made by the requestor. Then in paragraph 0066, the "listener module" is described as being able to send a signal that a resource(s) is missing at the time of attempted configuration command execution to the requesting device. By first requesting validation, then receiving the error from the listener module, one can detect that the target element is capable of performing all tasks specified by said first atomic task but for at least one unsatisfied parameter; Rockwell – Page 2-4 discloses the journaling proxy).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claims 11 and 27, the combination of Refai et al., Klos et al. and Rockwell discloses the method and an article of manufacture comprising a program storage medium having computer readable code embodied therein of claims 1 and 20 respectively, further comprising undoing all completed atomic tasks that have been completed pursuant to said high level activation request if said first target element is unable to complete said first atomic request when said first atomic request is executed at said first target element (Refai, Page 5, paragraph 0067 describes the ability to undo

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configuration changes with flexibility to specify which target(s) to undo; Klos et al. – Page 44, ¶ [0832] discloses activation request).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 18, the combination of Refai et al., Klos et al. and Rockwell discloses the arrangement of claim 12 wherein said journaling proxy is configured to send a qualified success message to said activation engine after said atomic request is received at said journaling proxy, said qualified success message enabling said activation engine to consider said high-level request a provisional success in order to attend to any other pending high-level activation request (Refai, Page 5, paragraph 0062-0063 describe the process of testing the potential success of an upcoming configuration job, and sending back that status so that further decisions can be made by the requestor. Then in paragraph 0066, the “listener module” is described as being able to send a signal that a resource(s) is missing at the time of attempted configuration command execution to the requesting device; Rockwell – Page 2-4 discloses the journaling proxy).

The motivation and obviousness arguments are the same as in Claim 1.

As to Claim 19, the combination of Refai et al., Klos et al. and Rockwell discloses the arrangement of claim 18 wherein said qualified success message is sent only after said journaling proxy ascertains that said target element is capable of performing all tasks specified by said atomic request but for at least one unsatisfied parameter in said

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predefined configuration parameters. (Refai, Page 5, paragraph 0062-0063 describe the process of testing the potential success of an upcoming configuration job, and sending back that status so that further decisions can be made by the requestor. Then in paragraph 0066, the “listener module” is described as being able to send a signal that a resource(s) is missing at the time of attempted configuration command execution to the requesting device. By first requesting validation, then receiving the error from the listener module, one can detect that the target element is capable of performing all tasks specified by said first atomic task but for at least one unsatisfied parameter; Rockwell – Page 2-4 discloses the journaling proxy).

The motivation and obviousness arguments are the same as in Claim 1.

(10) Response to Argument

I. APPELLANT’S ARGUMENTS WITH RESPECT TO CLAIMS 1-27 SHOULD NOT BE FOUND PERSUASIVE BECAUSE THE COMBINATION OF REFAI ET AL., KLOS ET AL. AND ROCKWELL TEACH THE CLAIMED LIMITATIONS, AND THE COMBINATION OF SAID REFERENCES IS PROPER.

1. Appellant argues that primary reference Refai et al. in combination with secondary reference Klos et al. would change the principle operation of Refai et al. and would also render Refai et al. unsatisfactory for its intended purpose. Appellant’s argue that the suggested combination of Refai in view of Klos renders Refai

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unsatisfactory for its intended purpose because Refai would be modified from a “configuration management framework” that only configures target entities and does not activate target entities to a service management system that provides activation requests that activates target entities. In making this argument, Appellant argues that the limitation admittedly not expressly disclosed from Refai et al. (activation), but disclosed by Examiner using the secondary reference Klos et al., would change the principle operation of Refai et al. by arguing that since Refai et al. is silent on the missing limitation of activation, Refai et al.'s intended purpose is not to include the missing limitation of activation. However, there is nothing in Refai et al. that suggests that *activation was not to be performed* or that *only configuration was to be performed*. Refai et al. does not explicitly disclose activation, but *activation is implied* in ¶ [0036] of Refai et al. in “the operation of communications network equipment.” Otherwise, mere configuration, without some kind of activation, would make operation impossible. Activation must occur before operation. Yet Refai et al. explicitly discloses configuration and operation, hence activation is implied. Therefore, Examiner is not persuaded by the argument that “Refai would be modified from a ‘configuration management framework’ that only configures target entities and does not activate target entities.” Furthermore, the argument, on Page 14 of Appellant’s Appeal brief, that Refai et al. would be converted from a configuration management framework to a service management system ignores the fact that in making the combination, Refai et al. would not lose its configuration management function. Therefore this argument is also unpersuasive.

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2. Appellant also makes a similar argument that primary reference Refai et al. in combination with secondary reference Rockwell would change the principle operation of Refai et al. and would also render Refai et al. unsatisfactory for its intended purpose. Appellant argues that the timer function in Rockwell is:

- a. not capable of performing repetitively at a frequency;
- b. not capable of allowing one to take as long as it needs; and
- c. not capable of being stopped on detecting an error.

Examiner responds:

As to **a**, the timer function is used in many industrial applications at a period equal to the cycle time of the device it's controlling. To perform at a frequency, one merely needs to enable the timer at a frequency. Therefore, this argument is unpersuasive.

As to **b**, preset value of the timer function is programmable. If additional time is required, one merely needs to modify the accumulated value during timing, or alternatively disable the timer (the rung goes false) until one wishes to resume. Therefore, this argument is unpersuasive.

As to **c**, the timer function can be stopped either by freezing the accumulated value or simply making the condition preceding the timer false. Error can be detected merely by monitoring the enable bit while the logic expects the timer to be timing. Therefore, this argument is also unpersuasive.

Therefore, Rockwell does not change the principle operation of Refai et al., nor does Rockwell render Refai et al. unsatisfactory for its intended purpose. Furthermore, the

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argued timer functions are not claimed by Appellant. Therefore, Appellant's argument is unpersuasive.

3. As demonstrated in Section (9) above, all limitations of Claims 1-27 are disclosed by the combination of Refai et al., Klos et al. and Rockwell. The motivation to combine the cited references is clearly indicated within the rejection in Section (9) and within the Final Rejection dated 03/02/2009. Appellant's argument that the combination of references is improper is also unpersuasive for the reasons stated in this section. Therefore Examiner believes that the rejection of Claims 1-27 under 35 U.S.C. 103(a) is proper and should stand.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Richard G Keehn/

Examiner, Art Unit 2456

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